

No. _____

Brewer Leasing, Inc.
Plaintiff

In the District Court of

vs.

George T. Jackson, Individually,
Burck, Lapidus & Lanza, P.C.,
Michael S. Hays, Individually, and
LeClairRyan, successor in interest
to Hays, McConn, Rice & Pickering, P.C.
Defendants

Harris County, Texas

_____ Judicial District

Plaintiff's Original Petition

COMES NOW the Plaintiff, **Brewer Leasing, Inc.** complaining of the Defendants, **George T. Jackson, Burck, Lapidus & Lanza, P.C., Michael S. Hays, and LeClairRyan**, successor in interest to **Hays, McConn, Rice & Pickering, P.C.**, and shows:

1. Jurisdiction and Venue

All Defendants reside and at the time of events in issue had their principal place of business in Harris County, Texas. The amount sought as damages exceeds the minimum jurisdiction of this Court. Plaintiff seeks to recover an amount in excess of one million, up to approximately 29 million plus interest and court costs.

2. Parties

Plaintiff Brewer Leasing, Inc. is a Texas Corporation in good standing with the office of the Secretary of State of the State of Texas and with the Comptroller of Public Accounts, is called '**Brewer Leasing**' herein, and has an address of 2000 E. 42nd Street, Odessa, Ector County, Texas 79762.

Defendant **George T. Jackson** is an individual and member in good standing of the State Bar of Texas, is called '**Jackson**' herein, and has an office address of 5615 Kirby Drive, Suite 900, Houston, Harris County, Texas 77005.

Defendant **Burck, Lapidus & Lanza, P.C.** is a Texas Professional Corporation which was voluntarily dissolved on May 19, 2017, is called '**Burck Lapidus**' herein and whose address is 5177 Richmond Ave, Suite 850, Houston, Harris County, Texas 77056.

Defendant **Michael S. Hays** is an individual and member in good standing of the State Bar of Texas, is called '**Hays**' herein, and has an office address of Park Laureate, 10000 Memorial Drive, Suite 300, Houston, Harris County, Texas 77024.

Defendant **LeClairRyan** is a Virginia Professional Corporation, is called '**LeClairRyan**' herein, whose Texas place of doing business is 1233 West Loop South, Suite 1000, Houston, Harris County, Texas 77027, which is the successor in interest through merger to Defendant **Hays, McConn, Rice & Pickering, P.C.**, a Texas Professional Corporation, called '**Hays McConn**' herein, which has been voluntarily dissolved in favor of the surviving entity, **LeClairRyan**.

3. Service of Process

Defendant **Jackson** can be served at his place of business at 5615 Kirby Drive, Suite 900, Houston, Texas 77005.

Defendant **Burck Lapidus** may be served through its registered agent, Mark Lapidus, President and Registered Agent at his office at 5177 Richmond Ave., Suite 850, Houston, Texas 77056.

Defendant **Hays** can be served at his place of business at Park Laureate, 10000 Memorial Drive, Suite 300, Houston, Texas 77024.

Defendant **LeClairRyan** does not maintain a Registered Office or Registered Agent within the State of Texas as required by Texas Business Organization Code Section 5.201 (1) and (2). Under the provisions of the Texas Business Organization Code Subchapter F, Section 5.251 (2) (B), such failure automatically appoints the Texas Secretary of State as the agent for service of process and under the provisions of the Texas Business Organization Code Subchapter F, Section

5.252 (a) (1) et. seq., service can be made by sending copies of the citation and pleadings to Service of Process, Secretary of State, James E. Rudder Building, 1019 Brazos Room 105, Austin, Travis County, Texas 78701

Defendant **Hays McConn** does not maintain a Registered Officer or Registered Agent within the State of Texas; it does have a current filing of public information which is effective February 22, 2019 and lists the Registered Agent as **Dwight Jones**, but there is no record with the office of the Secretary of State that Mr. Jones was appointed as Registered Agent, and no Registered Office within the State of Texas for Mr. Jones is listed in the public information filing that is currently in effect; for these reasons, service upon **Hays McConn** can be made upon the Secretary of State as with Co-Defendant **LeClairRyan**.

Plaintiff is filing suit within the two year statute of limitations, and shall use due diligence to secure service of citation.

4. Discovery Level

Plaintiff requests that this case be conducted under Docket Control discovery Level II.

5. Cause of Action

This lawsuit is grounded in **negligence** as to all Defendants.

6. Facts

Defendant **Jackson**, individually and on behalf of the law firm of which he was an officer or member, **Burck Lapidus**, and Defendant **Hays**, individually and on behalf of the law firm of which he was an officer or member, **Hays McConn** (now merged with Defendant **LaClairRyan**), while representing Plaintiff **Brewer Leasing** in a wrongful death case against **Brewer Leasing**, Texas Stretch, Inc., and Charles A. Hitchens, sought to lessen the impact of the claim against **Brewer Leasing** (Plaintiff herein) and its insurance carrier by negligently concealing, failing to

reveal, and thereafter negligently failing to disclose their previous errors with respect to the cocaine level of the driver of the highway tractor-trailer, Charles A. Hitchens, from all opposing counsel who represented injured or killed plaintiffs and from co-defendant Ray Bellew and Sons.

The driver, Charles Hitchens, admitted fault at the scene and was almost universally found to be 100% at fault in causing the traffic wreck that took the life of Diane Patterson and injured many other people. Jackson, Hays, and their law firms negligently failed to disclose the whole truth with respect to Mr. Hitchens' cocaine level at the time of the collision. Mrs. Patterson's family members and estate were awarded approximately \$8,786,746.41 in damages as a result of a trial, in which Jackson (and Hays) were successful in excluding any proof of cocaine use. In a next iteration of this legal odyssey, a Stowers case was brought against the insurance carrier for **Brewer Leasing**. The insurance carrier produced its 'claims file' which contained the toxicology results as to the amount of cocaine in Charles Hitchens urine immediately following the wreck. This production was made by the insurance carrier that previously hired Defendant **Jackson**. As part of a production request that netted many thousands of pages, among which was the damaging toxicology results as well as correspondence written by Defendants **Hays** and **Jackson** in February 2007 relating to those results. The correspondence by Hays and Jackson in Feb 2007 conclusively proves they both knew the exact, precise level of cocaine metabolite (43,444 ng/ml) – a level they negligently failed to reveal in the years of litigation that followed, and they negligently told the court in a formal legal Motion to Exclude evidence that the level had not been determined.

During the conduct of the case the results as to the amount of cocaine (43,444 ng/ml) was never produced by these lawyers even though it was repeatedly requested through the discovery process. The amount of cocaine in Mr. Hitchens urine was 43,444 ng/ml; the amount that is deemed sufficient to impair a person under Federal Motor Carrier Safety Administration guidelines is 150 ng/ml. Defendants, at all times relevant to this case, were in possession of the toxicology results that contained this evidence and indisputably knew the number. Defendants

exposed **Brewer Leasing** to a 're-trial' of the case, this time with the knowledge of the extent of cocaine intoxication of Mr. Hitchens in the hands of the lawyer for the Patterson family.

The subsequent event, a Bill of Review filed in the same 334th District Court under cause number 2011-64488, resulted in the original verdict being set aside, agreements being vacated, with only Plaintiff (herein) **Brewer Leasing** as Defendant (Charles A. Hitchens and Texas Stretch, Inc. having settled along the way with the Patterson family). This time, however, the damaging toxicology results and correspondence between the Defendants showing their knowledge of the degree of cocaine intoxication was now in the hands of opposing counsel.

The result of the trial in Cause No. 2011-64488 as to actual damages was close in amount to the first trial (when pre-judgment interest is added) for actual damages and expenses, plus costs of court and statutory interest. However, an additional, punitive damage award of \$20,000,000.00 was returned by the jury. After the Judge and Court of Appeals concluded that Brewer Leasing was not liable for these damages, a third trial was held for fraud. The Judge then entered a judgment against Brewer Leasing for approximately \$9,000,000.00 in actual damages and \$20,000,000.00 in punitive damages.

7. Damages

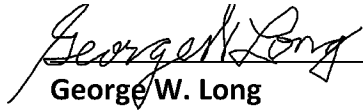
As a direct and proximate result of the negligence acts by **Defendants Jackson, Burck Lapidus, Hays, LeClairRyan** as successor in interest of **Hays McConn**, while serving as its attorneys in Cause No. 2007-20376, Plaintiff **Brewer Leasing** suffered and continues to suffer damages directly caused by such negligence in the approximate amount of \$29,000,000, for which damages Plaintiff sues.

8. Prayer

Now, Therefore, Plaintiff prays that Defendants be cited to appear and answer this lawsuit, that Plaintiff have its day and that upon trial of the case the Court enter judgment against Defendants for all damages proximately caused by their negligence according the facts and the

law presented, together with pre-judgment interest, court costs, post-judgment interest, as the Court determines.

Respectfully Submitted,

A handwritten signature in black ink, reading "George W. Long", is written over a horizontal line.

George W. Long

Attorney for Plaintiff, Brewer Leasing, Inc.

State Bar Card 12517300

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